

R E M A R K S

Reconsideration of the application is requested. Claims 1 through 14 are now in the application. Of these, Claims 7 through 14 have been withdrawn from consideration as being directed to non-elected subject matter. Claims 7 through 14 are being retained in the application subject to Applicant's option to file a divisional application directed thereto.

Claims 1 to 6 have been amended to obviate the Examiner's objections and/or rejections which necessitate further reconsideration.

Referring to paragraph 3 of the Examiner's action dated January 30, 2006, it is to be noted that the application has now been amended to include the status of the parent application referred to on page 1 of the specification. The specification on pages 8 and 9 have also been amended to obviate obvious grammatical errors.

The Examiner's general objection to the drawings, as indicated in paragraph 4 of the Examiner's action, has also been noted. As no specific unreadable or non-uniform lining of the drawings have been identified, the Applicant is submitting herewith replacement sheets with respect to Figs. 1 through 6 in an effort to obviate any unreadable and/or non-uniform lining in accordance with 37 CFR 1.121(d)1.

Pursuant to 37 CFR 1.121(d)2, Applicant is also submitting

herewith a marked up copy of the drawings presented in the replacement sheets to indicate the corrections in red that have been made on the replacement sheets.

With respect to drawing Figs. 1 through 5, it is to be noted that the highlighted or darkened lines in Figs. 1 through 5 respectively are intentionally highlighted so as to emphasize the various steps of the roasting process in an effort to better illustrate and understand the subject matter being claimed. Since the drawings comprise a diagrammatic illustration of the invention, it is submitted that emphasizing the various features and steps of the claimed invention, as shown in Figs. 1 through 5 to better illustrate the invention, should not be considered as objectionable. Reference is made to the drawing descriptions on page 5 of the specification wherein, for example, Fig. 1 is defined as a diagrammatic side view of a coffee roasting apparatus embodying the present invention emphasizing the roasting phase. Fig. 2 is described as emphasizing the first step of the cooling phase. Fig. 3 is defined as emphasizing the second step of the cooling phase. Fig. 4 is defined as emphasizing the final phase of the roasting cycle. Fig. 5 is defined as emphasizing the step of loading the green coffee into the roasting oven.

It is submitted that the difference in the lines showing on Figs. 1 through 5 renders a better and more comprehensive

understanding of the invention. Therefore, the difference in the lining of the drawings in this particular application should not be considered as not in compliance with the drawing requirements.

In paragraph 6 of the Examiner's action, it is noted that Claims 1 through 6 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as his invention. Accordingly, Claims 1 through 6 have now been amended to obviate the Examiner's objections noted in paragraphs 6 through 21 of the Examiner's action. It is submitted that the amendments made to the claims now clearly provide proper antecedent to obviate the indefiniteness noted by the Examiner. It is therefore submitted that the indefiniteness noted by the Examiner with respect to Claims 1 to 6 have now been obviated and are now in compliance with Title 35 USC 112, paragraph 2.

The rejection of Claims 1 through 6 under 35 USC 103(a) as being unpatentable over U.S. Patent 4,642,906 to Kaatz in view of Howson Patent 1,843,131, the German reference DE 3711098A1, and the Rentzel patent 5,709,542 is noted.

In formulating the rejection of Claims 1 to 6 under 35 USC 103(a), the Examiner admits that the basic reference to Kaatz does not (1) disclose any baffles forming a sinuous path as required in Claims 1 through 3, (2) a roasting oven having a

perforated drum, as disclosed in Claims 1 and 2, (3) means for recirculating the cooling gases to the combustion chamber as defined in Claims 1 through 3, (4) a suction fan being selectively in communication with both the cooling chamber and the roasting oven as specified in Claim 2, (5) a means for de-stoning as set forth in Claims 4 to 6, (6) a means for aspirating as defined in Claim 5, and (7) a separator being downstream from the suction fan as defined in Claims 2 and 3.

In an effort to supplement that which the Examiner admits is not disclosed in the basic reference to Kaatz, the Examiner refers to the Howson patent which the Examiner asserts discloses a roasting device comprising a perforated drum, a suction fan selectively in communication with both the cooling chamber and the roasting oven, a separator downstream from the suction fan and a de-stoning and aspirating means.

In an effort to negate Applicant's claim limitation of a combustion chamber having spaced baffles disposed within the outer housing of the combustion chamber to define a sinuous gas flow path, the Examiner cites the Rentzel patent.

Finally, the Examiner relies on yet a fourth reference, namely the German reference, to negate Applicant's feature of recirculating cooling gases emanating from the coffee cooling stage to the combustion chamber.

The Examiner then proceeds to reconstruct the various

unrelated features of the respective four references to negate Applicant's claimed invention, by hindsight reconstruction to negate Applicant's claimed invention which is not suggested, disclosed or taught in any of the references combined by the Examiner.

It is to be noted that there is absolutely no motivation or teaching in any of the references to combine the unrelated various components noted by the Examiner that could achieve or negate Applicant's claimed combination or invention.

First, it is to be noted that Claims 1 through 6 are directed to a coffee roasting apparatus that includes a combination of various elements which are arranged in a new and novel manner which is not suggested, disclosed, or inferred in any of the references cited by the Examiner. For example, the Examiner admits that the Kaatz does not teach baffles that define a sinuous path within the combustion chamber. To negate this feature, the Examiner cites Rentzel for negating Applicant's baffles forming a sinuous gas path. Rentzel, it is submitted, is an improper reference in which to modify Kaatz when it is noted that neither Rentzel nor Kaatz suggest, disclose or infer baffle means defining a sinuous gas path. Further, the reference to Rentzel is directed to a device for the combustion of an oxidizable constituent in a carrier gas which is to be cleaned and constitutes a totally non-analogous art. Further, Rentzel

does not disclose any baffle means defining a sinuous path as called for in the claims. Element 32 of Rentzel, which the Examiner apparently is equating to be baffles, is in fact a heat exchanger comprised of a series of tubes which are arranged concentrically around a flame tube 22. Reference is made to Col. 4, lines 24-36 of Rentzel. Clearly, it is not understood how Rentzel's series of tubes may be utilized in Kaatze when it is noted that neither Rentzel and/or Kaatze remotely suggest the use of a sinuous baffle structure as called for in Applicant's novel coffee roasting combination as defined by the claims in issue.

It is to be significantly noted that with Applicant's claimed coffee roasting apparatus, the cooling gases emanating from the coffee cooling chamber as redirected back to the combustion chamber whereby the cooling air in entering the combustion chamber functions as an insulating medium for maintaining the outer housing of a combustion cool while the cooling gases flowing through the sinuous path defined by the baffles are incrementally heated to coffee roasting temperature.

Therefore, while the combustion chamber is heating the roasting gases to a roasting temperature, the incoming cooling gases tend to maintain the outer walls of the combustion chamber relatively cool in comparison to the internal roasting temperatures. Clearly, this concept is nowhere disclosed, suggested or taught in any of the references cited by the Examiner, whether

considered singly and/or in combination.

Also, the basic reference to Kaatz does not disclose any means for recirculating a cooling gas to the combustion chamber. In an effort to supplement that which is lacking in Kaatz, the Examiner cites Howson for teaching a roasting device having a suction fan selectively in communication with both the cooling chamber and the roasting oven. A feature of Applicant's invention is a fan that can selectively circulate the cooling gases to the combustion chamber and/or the roasting gases emanating from the roasting oven. Clearly, Howson does not remotely suggest, infer or disclose any arrangement whereby the fan causes recirculation of the cooling gases from the coffee cooling stage to the combustion chamber as contemplated in Applicant's claimed coffee roasting combination.

Therefore, the teaching of Howson and the manner in which the Examiner appears to be applying Howson to Kaatz, appears to be unwarranted, since there is no motivation disclosed in either applied reference to modify the features of Kaatz or Howson as suggested by the Examiner. It has been consistently held that it is improper to combine references in view of Applicant's own disclosure.

The German reference cited by the Examiner has also been noted. While the German reference appears to disclose the separation of the coffee shafts in two phases, the German

reference is lacking in teaching Applicant's claimed two-phase cooling arrangement whereby the cooling gases can be optionally recirculated back to the combustion chamber or to atmosphere.

Claims 1 through 6 are readily patentably distinguishable over the cited references, whether considered singly and/or in combination, in that none of the references disclose Applicant's coffee roasting apparatus that has a combustion chamber having spaced apart baffles disposed therein so as to define a sinuous recirculation gas path whereby the gases generated internally of the combustion chamber can achieve a coffee roasting temperature while the shell of the combustion chamber is maintained relatively cool through the medium of the incoming cooling air emanating from the coffee cooling stage. Another feature of Applicant's claimed invention, which is not suggested, disclosed or inferred in the references cited, whether considered singly and/or in combination, is directed to a two stage cooling of the roasted coffee wherein the second recited stage can be optionally operated to discharge the cooling gases to atmosphere free of any coffee residue and/or to generate the aspirating of the cooled roasted coffee from the cooling chamber to the de-stoning means..

Claim 1 includes a first phase cooling means connected to said conduit means and said cooling chamber for drawing a first phase cooling gas through said cooling chamber for re-circulating said first phase cooling gas to said sinuous gas path in a

combustion chamber for reheating said first phase cooling gas to a roasting temperature. Claim 1 also calls for a second phase cooling means connected to said cooling chamber for drawing a second phase cooling gas through said cooling chamber and means for venting the said second phase cooling gas directly to the atmosphere, free of any coffee chaff. None of the references cited by the Examiner negate Applicant's claimed first and second phase cooling means and/or the relationship thereof to the other claimed elements of the invention. Clearly, Howson does not disclose a first phase cooling means and a second phase cooling means, as recited in Claim 1. Likewise, the German reference does not disclose a two phase cooling means as called for in the claims. The German reference discloses a separator 10 receiving heating gases from the roasting oven 2 by means of conduit 9, whereby the roasting gases emanating from the separator 10 are directed to the burner heater 4. The German reference has a second separator 20 that receives the cooling gases from the cooling chamber 16 via conduit 18 and which cooling gases are thereafter directed to the burner heater 4 through conduit 24. The German reference does not teach or suggest a first stage cooling means that is optionally in communication with both the roasting oven and the coffee cooling chamber for recirculating the respective oven gases and cooling gases through the separator and back to the combustion chamber.

As neither Howson, the German reference, Rentzel nor Kaatz suggests or discloses Applicant's first phase cooling means and second phase cooling means for drawing gases from the roasting oven and cooling chamber in the manner contemplated by Applicant's invention, it is not understood how the cited secondary references can be utilized to supplement that which is admittedly not disclosed in the basic reference to Kaatz.

It has been consistently held that it is improper to formulate a rejection under 35 USC 103 by combining references in view of the Applicant's own disclosure. The Federal Court has repeatedly held that to find an invention obvious under 35 USC 103(a) in view of a combination of references, there must be some suggestion, motivation or teaching in the prior art that would lead a person of ordinary skill in the art to select the various components of the cited references and combine them in a way that would produce an applicant's claimed invention. *Karsten Manufacturing Corp. v. Cleveland Golf Co.* cited at 58 USPQ 2d 1286 (Fed Cir 2001).

In *Heidelberger Druckmaschinen AG v. Hantscho Commercial Products* cited at 21 F.2d 1068 and, 30 USPQ 1377, 1379 (Fed Cir 1994), the Court noted that when a patent invention is made by combining known components to achieve a new system, the prior art must provide a suggestion or motivation to make such a combination. In *Northern Telecom v. Datapoint Corp.*, 15 USPQ 2d

1321, 1323 (Fed Cir 1990), the Federal Circuit also noted that it is insufficient that the prior art disclose the components of a patented device, either separately or used in other combinations, there must be some teaching, suggestion or incentive to make the combination made by the inventor citing *Uniroyal, Inc. v. Rudkin Wylie Corp.*, 5 USPQ 1434, 1438 (Fed Cir 1988).

For reasons stated hereinabove, it should be apparent that the identified components cited by the Examiner in the secondary references to Rentzel, Howson and the German reference are being utilized in an entirely different combination to produce different results from the combination recited in Applicant's claims in issue. Not only are the elements noted by the Examiner in the cited references to Kaatze, Howson, the German reference and/or Rentzel utilized in mutually distinct combinations, there is absolutely no teaching, suggestion or incentive that can be identified in the respective cited references whereby one ordinarily skilled in the art could obviously derive the specific combination to which Applicant's claims are directed. It is therefore submitted that the references cited by the Examiner to supplement that which is admittedly lacking in Kaatze, is totally unwarranted in both substance and teaching as a matter of law as there is no suggestion, motivation or teaching in the cited prior art to selectively combine the various components thereof as opined by the Examiner.

A reading and understanding of Claims 1, 2 and 3 will evidence that these claims are directed to an apparatus combination which is not remotely disclosed, suggested, or inferred in the cited references, whether considered singly and/or in combination for the reasons above stated. It is therefore submitted that these claims are clearly patentably defined over the art of record. Claims 4, 5 and 6, which are rendered dependent upon Claim 3, are deemed to be in allowable form for allowance for the reasons stated with respect to Claim 3 and in further view of the additional limitations set forth in respective Claims 4 through 6 respectively, when considered in combination with the claimed components of Claim 3.

Claims 7 through 14 have been withdrawn from reconsideration for the time being. Accordingly, Claims 7 to 14 are being held in abeyance pending the filing of any divisional application at the option of the Applicant.

If Claims 1 to 6, as amended herein, are found to be directed to allowable subject matter for the reasons stated, Applicant would have no objection to effecting the cancellation of Claims 7 to 14 by an Examiner's amendment so as to expedite the prosecution of this application.

Attached hereto is Applicant's Petition for a one-month extension in which to respond to the Examiner's action dated January 30, 2006, together with the appropriate one-month

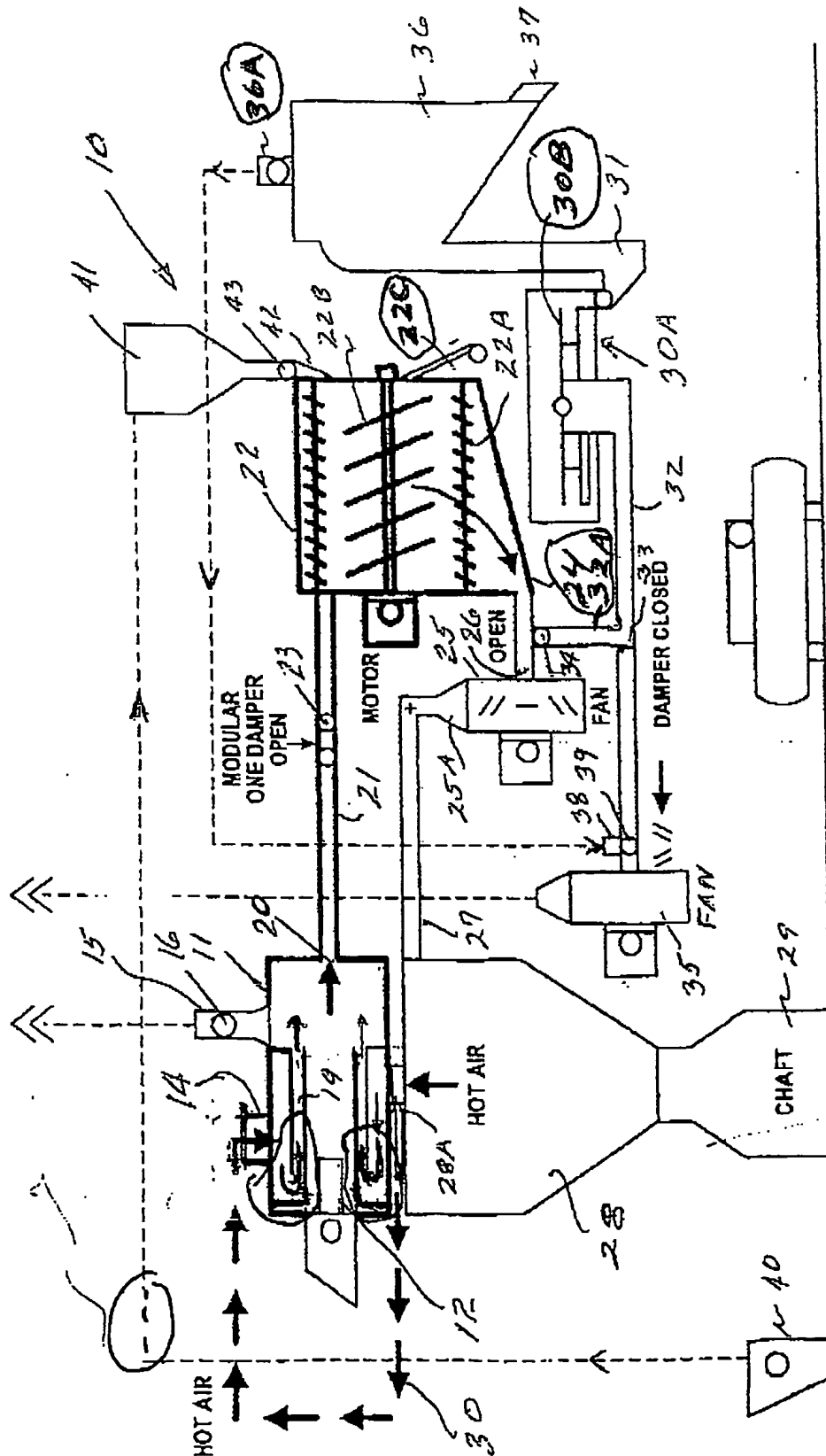
extension fee.

In view of the foregoing amendments and remarks, it is submitted that the application is now in proper form for an expressed allowance and a prompt notice of an allowance is earnestly solicited.

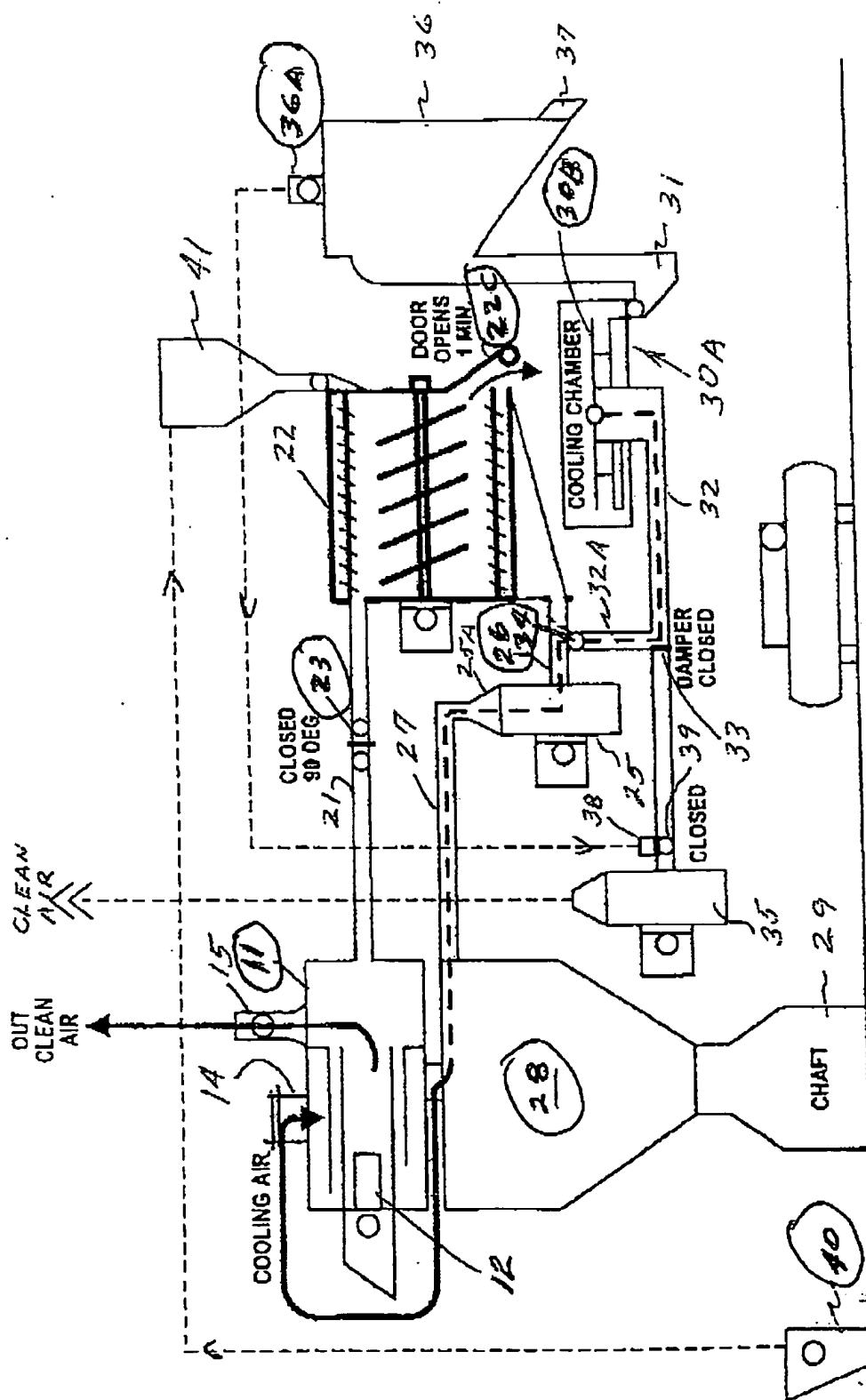
Respectfully submitted,



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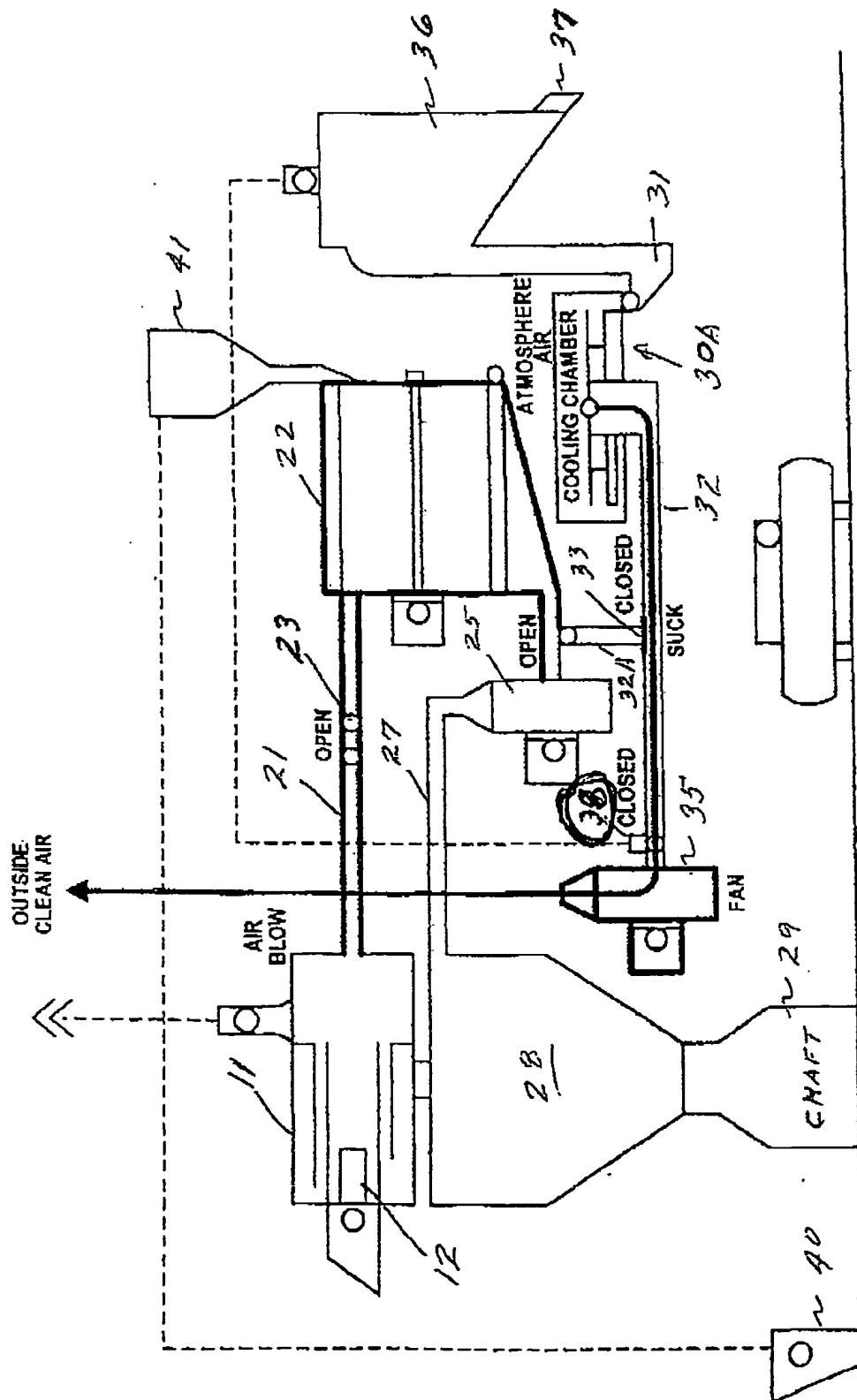


FIG. 3

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DRAWING

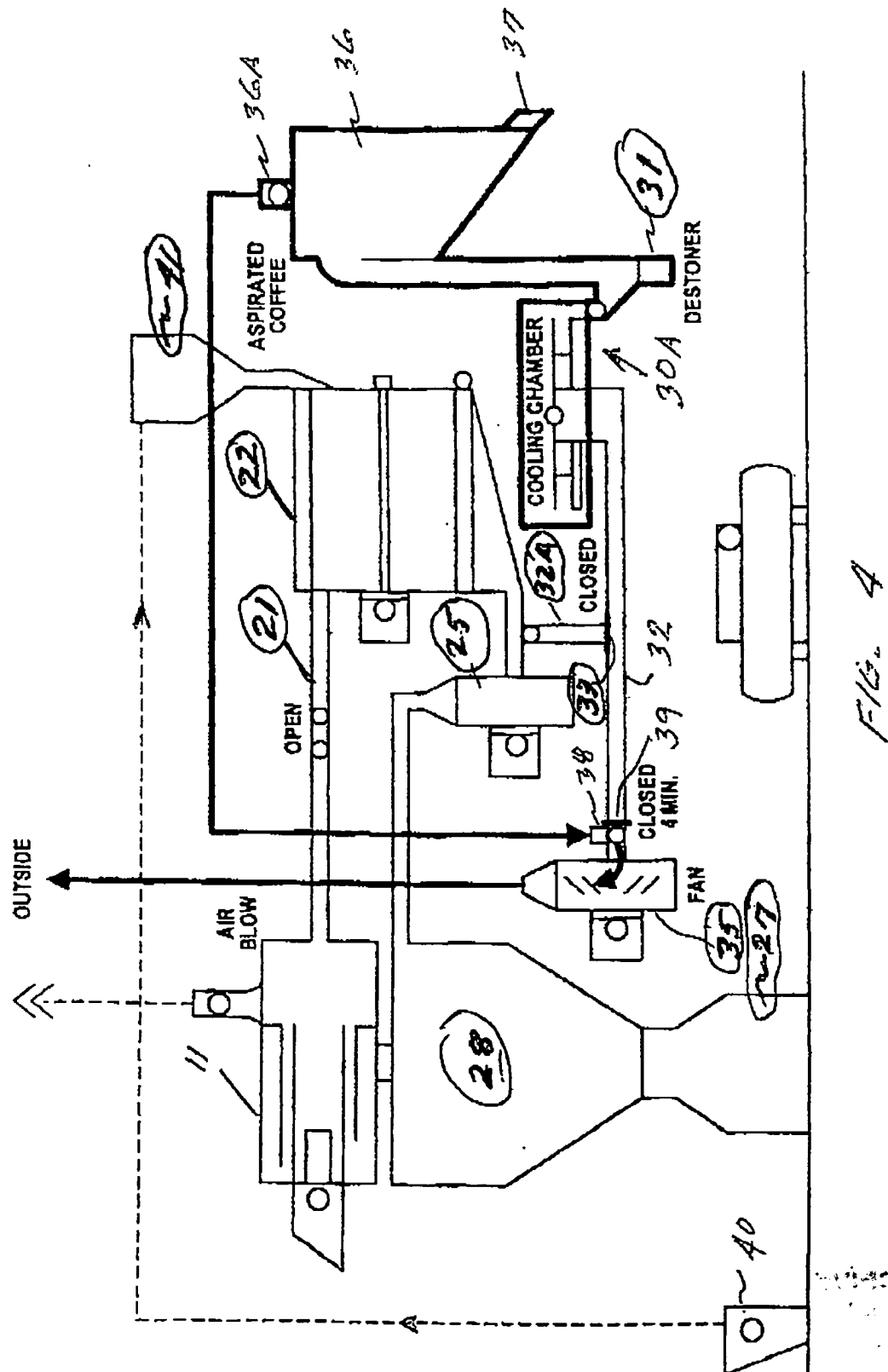
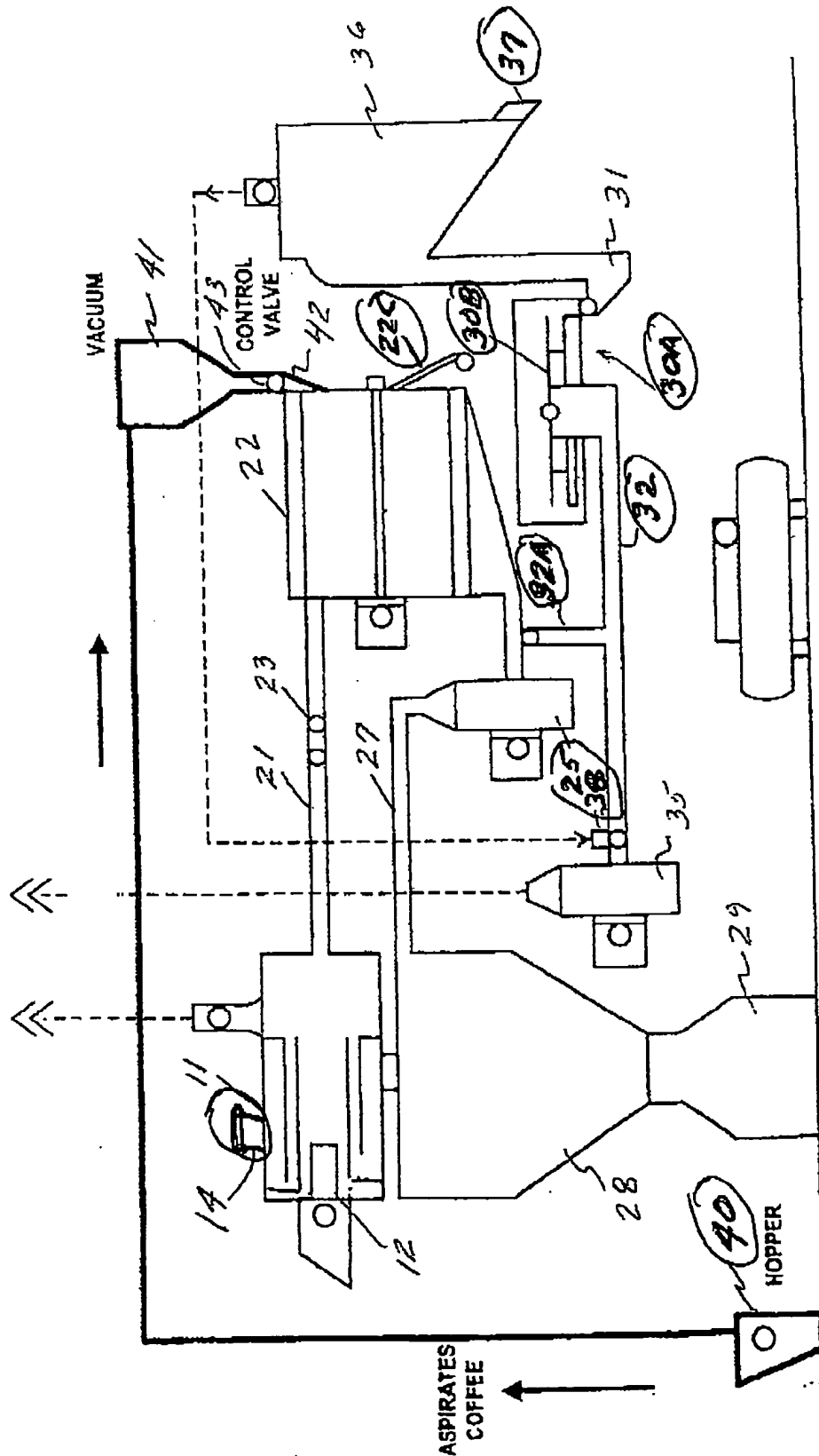


FIG. 4

DRAWING

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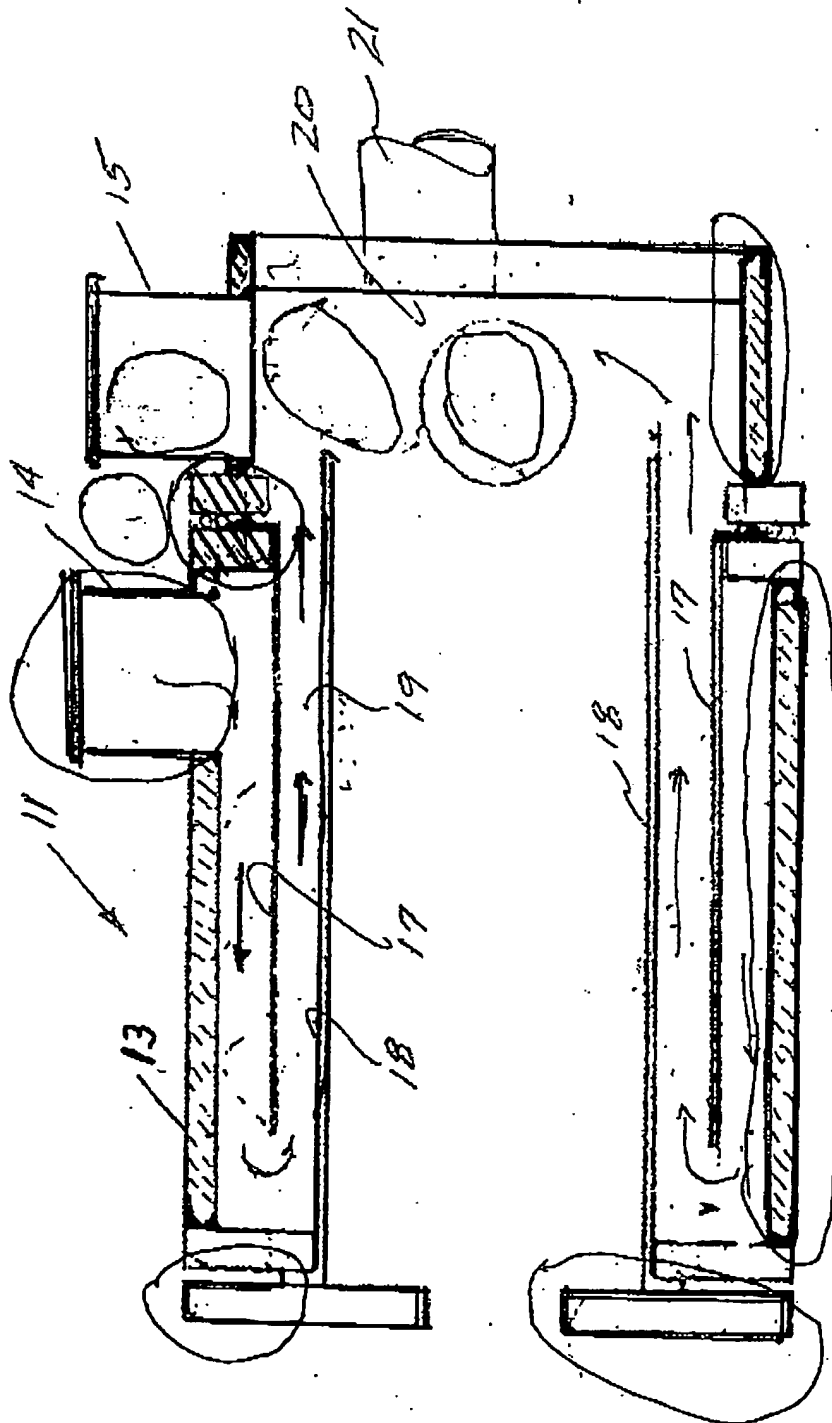


FIG. 6